

# EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

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ESTATE OF WAYNE BRUNETTE, by       )  
BARBARA BRUNETTE, as personal       )  
representative and administratrix)  
of the ESTATE OF WAYNE BRUNETTE,) )  
and BARBARA BRUNETTE,                )  
individually,                         )  
                    Plaintiffs,        )  
      vs.                                )  
CITY OF BURLINGTON, VERMONT;        )  
CITY OF BURLINGTON POLICE            )  
DEPARTMENT; CHIEF MICHAEL            )  
SCHIRLING, in his individual         )  
and official capacities, CPL.         )  
ETHAN THIBAUT, in his                 )  
individual and official                )  
capacities; CPL. BRENT NAVARI,        )  
in his individual and official         )  
capacities,                            )  
                    Defendants.         )  
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DEPOSITION OF RUTHINE BRUNETTE  
taken on June 3, 2016, at 11:24  
at the offices of Downs, Rachlin &  
Martin, Burlington, Vermont.

APPEARANCES:

STEVEN A. ADLER, ESQ., of the firm of Adler &  
McCabe, St. Johnsbury, Vermont, on behalf of the  
plaintiffs;

TRISTRAM COFFIN, ESQ., and JENNIFER MCDONALD,  
ESQ., of the firm of Downs, Rachlin & Martin,  
Burlington, Vermont, on behalf of the defendants;

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1 Q. And then after that, you have been at  
2 your current residence?

3 A. We went to the house.

4 Q. At 85 Randy Lane?

5 A. Yes.

6 Q. And that, you have seen that  
7 neighborhood kind of grow and grow?

8 A. Yes.

9 Q. And that is where you raised your  
10 family?

11 A. Yes.

12 Q. Now, drawing your attention back to  
13 the event of November 6, 2013. You had  
14 called the police because Wayne had been  
15 cutting down part of your apple tree, and you  
16 wanted some help, is that right?

17 A. Yes.

18 Q. And he had come down and cut down a  
19 portion of the apple tree; then you kind of  
20 chased him into his apartment?

21 A. Right.

22 Q. But he said he was going to come  
23 down and cut the rest of it, is that right?

24 A. Yes. But I didn't call the police  
25 until I called Barbara. I called Barbara

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1 about that conversation?

2 A. I told her what he was doing. And  
3 she said, Well, she said, he has been acting  
4 terrible; she says, I want you to call the  
5 police.

6 Q. Okay.

7 A. I said okay. So I called the police;  
8 and they came. And then --

9 Q. Let me ask you this, though. You  
10 have said that you called Barbara pretty soon  
11 after you encountered him having cut down the  
12 tree, is that right?

13 A. Yes.

14 Q. I understand that was about 3:30 in  
15 the afternoon?

16 A. Yes. It was around that time, yes.

17 Q. And you didn't call the police until  
18 about 4:30 in the afternoon. Does that jibe  
19 with your memory?

20 A. No. I don't remember that. To me, I  
21 called Barbara; she told me to call the cops.  
22 And I called them, and they came over. I  
23 don't know how long it took them to come to  
24 the house; I don't remember that.

25 Q. But the police came fairly soon

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1 Q. Did they do that in an angry,  
2 commanding tone?

3 A. No.

4 Q. Kind of conversational?

5 A. Yes. Just general, you know, just  
6 said, Mr. Brunette, would you please come  
7 down; we would like to talk to you.

8 Q. Okay. And at that point was Officer  
9 Thibault still standing next to you and your  
10 husband?

11 A. No. They were down on the sidewalk.

12 Q. He had moved down the sidewalk, is  
13 that right?

14 A. Yes.

15 Q. Had he gone along the sidewalk, past  
16 -- towards your driveway? Past the walkway  
17 from the front door, towards your driveway?

18 A. I don't remember that, no. I do  
19 remember them being down on the sidewalk.  
20 But how far they went down, I don't recall.

21 Q. Okay; gotcha.

22 And I'm going to show you an exhibit  
23 that is marked as number 55. Does that  
24 appear to be a photograph of your house at 85  
25 Randy Lane?

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1 A. Yes.

2 Q. And you talk about in the statement  
3 him poking the officer in the chest with it;  
4 not actually hitting him, but coming close?

5 A. He was jousting. He didn't -- well,  
6 he was close enough, I would be scared.

7 Q. If you had been one of the officers,  
8 you would have been scared about him hitting  
9 him?

10 MR. ADLER: Objection.

11 A. Well, I can't say what they were  
12 doing.

13 Q. I know. But what I am saying is, if  
14 you had been one of the officers, and he was  
15 confronting you in the way you describe, you  
16 would have been scared?

17 MR. ADLER: Objection.

18 A. I don't know. I can't speak for  
19 them. If I was an officer there myself, I  
20 don't know what I would have done.

21 Q. But he was making a poking motion  
22 towards the officer's chest, is that right?

23 A. Yes, he was like that.

24 Q. And you described how close they were  
25 in your statement as being, you know, no

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1 way that --

2 A. No.

3 Q. Okay.

4 Directing your attention to line 100,  
5 please. It says, "And they both start  
6 walking towards him to speak to him?

7 "Yes.

8 "Was he swinging the shovel or  
9 raising the shovel or is he (inaudible)."

10 Your answer, on 103, line 103 is, "He  
11 raised the shovel and then he started  
12 swinging, you know. I don't know if he would  
13 have hit him. He probably would have. I'm  
14 saying, you know, because he is angry, very  
15 angry, very angry."

16 Looking at that statement there, does  
17 that refresh your memory about him raising  
18 the shovel, when you saw that?

19 A. Yes. I remember him bringing it up  
20 from the side, going like this, with the  
21 shovel.

22 Q. And you are kind of pointing?

23 A. Pointing towards the officer. But to  
24 say that he was -- he wasn't swinging it  
25 around his head or anything. I just remember

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1 him bringing it up from the side and pointing  
2 it.

3 Q. He was pointing it at the officer?

4 A. Officers.

5 Q. And I think we went through a section  
6 a moment ago that said the -- at least one of  
7 the officers was on the median between the  
8 curb and sidewalk?

9 A. Mm-hmm.

10 Q. And the sidewalk divided him from  
11 Wayne; that is your memory?

12 A. Yes.

13 Q. Is that while the shovel was being  
14 pointed at the officer?

15 A. Gosh, I can't say yes or no to that.

16 Q. Directing your attention to line 115.  
17 Detective: "Okay, so you see him waving the  
18 shovel and you are assuming that he would  
19 have hit them if he was close enough?"

20 Your answer, "He probably would have,  
21 yeah." Do you see that?

22 A. Yes.

23 Q. And is that your memory?

24 A. Yeah, I would say so.

25 Q. Go to 158. Detective: "And just

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1 Q. And that was closer in time than  
2 today, right, when you gave the statement to  
3 Detective Hemond?

4 A. I don't understand what you are  
5 saying.

6 Q. Sorry. When you gave the statement  
7 to Detective Hemond, you had just seen what  
8 happened?

9 A. Yes.

10 Q. So now, years later, you might either  
11 forget or misremember some details, is that  
12 fair to say?

13 A. I guess, yes.

14 Q. So what is probably more accurate is  
15 what is in the actual statement you gave that  
16 evening, that is true?

17 MR. ADLER: Objection.

18 A. I really don't know.

19 Q. You told me before what you said to  
20 Detective Hemond was true?

21 A. Yes.

22 Q. Both today you told me that, right?

23 A. Yes.

24 Q. And in the affidavit from last  
25 summer, when you signed it, is that correct?

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1 A. Yes.

2 Q. And you listened to the statement  
3 beforehand, and that is true, correct?

4 A. Yes.

5 Q. So directing your attention to line  
6 154, please. Detective says, "Okay. So when  
7 you say he had the shovel up, you said before  
8 he had it kind of down at his side. When he  
9 picked the shovel up, you mean he picked up  
10 like similar to a baseball bat method?"

11 Answer, "Yeah, yeah, yeah, like he  
12 was gonna you know, he probably would have  
13 hit him.

14 "And just from the way he was holding  
15 the shovel, did it appear to you that he was  
16 going to hit them with the shovel?

17 "Yeah, yeah."

18 Do you recall that being the way he  
19 was acting at that time?

20 A. Well, I have to say yes, but you have  
21 to stop and think, this is when he was shot,  
22 you know, this happened. I just seen my son  
23 shot down.

24 Q. I understand.

25 A. And which I was very upset and

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1 everything. So I can't say that baseball bat  
2 method, you know.

3 Q. What you are remembering today is he  
4 was jabbing?

5 A. Yes. I mean, this is all when he  
6 just got shot. So I mean, my --

7 Q. You had a lot of things you were  
8 thinking about, that is true.

9 A. I just don't -- you know.

10 Q. No, I understand.

11 Is it fair to say this is a very  
12 stressful incident, obviously?

13 A. Oh, yes.

14 Q. And you are sort of recounting it as  
15 you are thinking about it, is that fair to  
16 say?

17 A. Yes.

18 Q. Still in the heat of the moment?

19 A. Yeah.

20 Q. And under the stress of the event?

21 A. Yes.

22 Q. Now, directing your attention to line  
23 208, please. As usual, I will have you go  
24 two lines above, to 206.

25 Detective: "He went towards them with

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1 the shovel up, raised?

2 Answer: "Yeah, yeah. And, you  
3 know, (inaudible.)

4 Then the detective asks, "If I was  
5 coming towards you in that manner, do you  
6 think, would you have thought I was going to  
7 hit you with something like that?"

8 Answer, "Oh, yeah, I think so."

9 Is that --

10 A. Yes.

11 Q. That is what you thought -- let me  
12 ask a better question; sorry. That is what  
13 you recall happening?

14 A. Yes.

15 Q. Now, when Wayne starts jabbing or  
16 poking the shovel, as you recall it, is he  
17 closer to one officer than the other?

18 A. I don't recall that.

19 Q. And do you recall when it is that  
20 Officer Thibault leaves where you are, and  
21 goes down towards the sidewalk area that you  
22 had mentioned he went down towards?

23 A. This is before Wayne came downstairs?

24 Q. Well, I don't know if it's before or  
25 after. Was Officer Thibault still talking to

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1 Q. From where the driveway intersects  
2 the sidewalk, is that right?

3 A. Right.

4 MR. ADLER: Objection.

5 MR. COFFIN: I am looking at you;  
6 you don't have to tell me; was that an  
7 objection to the form?

8 MR. ADLER: Right.

9 Mischaracterizing her past testimony.  
10 She said by the driveway, and you said a  
11 ways down the sidewalk.  
12

13 BY MR. COFFIN:

14 Q. You said he was on the sidewalk?

15 A. Sidewalk, yes.

16 Q. Was he -- how far down the sidewalk  
17 from the driveway was Wayne when he was shot?

18 A. I can't say how far he was. I know  
19 he was on the sidewalk.

20 Q. Do you recall -- what do you recall  
21 about the sequencing of the gunshots?

22 A. The only thing that I remember was,  
23 like I said, they asked him to put the shovel  
24 down, put the shovel down. Next thing I  
25 knew, I heard, bang, bang, bang, bang.

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